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“A most detestable crime” Representations of Rape in the Popular Press of Early Modern England

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Abstract

In early modern England the legal definition of rape underwent an important revision and gradually, from crime against property, rape became a crime against the person. While reflecting the classical, medieval and biblical assumptions, the period brought about new concerns. The purpose of this article is to explore representations of rape in a variety of popular texts of the English early modern period, by focussing attention on broadside ballads, cheap pamphlets as well as accounts of trials that took place at the Old Bailey. These texts constitute valuable sources of information about people's attitudes and beliefs and help us construct the views of rape circulating in early modern English culture.

Keywords: Early Modern English Culture, Popular Press, Proceedings of the Old Bailey, Representation of Rape, Street Literature

The Tyger is robbed of her young ones, when she is ranging abroad,
but men rob women of their honour undeseruedlye under their
noses. The Uiper stormeth when his taile is trodden on, & may
not we fret when al our bodie is a footstoole to their vild lust?

Jane Anger (1589)

1. Introduction

This study aims to investigate some of the different discourses on, and representations of rape that circulated in early modern English culture by considering a selection of texts belonging to the genre of street literature, broadside ballads and cheap pamphlets in particular¹. Moreover, given their popularity, proceedings of the trials held at the Old Bailey will also be taken into account. All these texts offer valuable information; they help us capture

a glimpse of ordinary people's beliefs, values and attitudes, and construct the views of rape circulating in early modern English culture.

As has been noted, rape is difficult to represent (Bal 2001, 100)². It is an event whose occurrence has to be proved by the victim herself, whose narrative is inevitably the result of both a linguistic transformation and a biographic reconstruction. In early modern England, furthermore, words were not enough; indeed, for the victim, her own words could sometimes become traps. As Garthine Walker argues, "many rape accusations resulted not in the prosecution of the alleged rapist but of the woman herself for slander" (1998, 19). We know that though legal authority and statutory law regarded rape as a serious crime, incurring severe punishment, the records of the main law courts show that most of the small proportion of men charged with rape were acquitted "not guilty", reprieved, described as "at large", or released without trial. Only a few of the accused were convicted and hanged (Bashar 1983, 22-48; Chaytor 1995, 378-407).

In addition, we should also consider the nature of the sources from which we gather information: indeed, far from being a direct expression of attitudes and concerns, sources require particular alertness not only to the distortions of "real" actions and social relationships but also to the distortions of "actual" attitudes as well: even legal records, apparently more "objective" sources, are problematic. They cannot be taken as wholly representative of victims' attitudes, firstly because rape appears to have been under-reported, and secondly because many of women's words survive in records created by male civic authorities³.

The legal definition of rape has varied over time and between legal systems. This means that the semantics of the term is closely connected with the legal attitude to rape. Law and legal compendia in the medieval and early modern periods betray influence from other discourses, in particular those of Old Testament law, the medieval and classical theories of human generation and literature; moreover they are founded on "constructs of female sexuality and consent derived from a complex body of theological, medical, and philosophical texts, both medieval and classical" (Baines 1998, 69).

Medieval law concerning rape sees the offense primarily in terms of power relations among men. Although the definition of the crime acknowledges the lack of female consent and the use of force⁴, the thirteenth-century statutes show that rape was understood primarily as a crime against property; the law was geared to protect the property of the wealthy, as well as to safeguard bloodline and family interests (Bashar 1983, 31)⁵. Amongst the "goods" that had to be protected was female virginity, and the law was particularly concerned about its preservation. Virginity as a property value is highlighted by Henry de Bracton, the most prestigious legal authority of the Middle Ages:

The rape of virgins is a crime imputed by a woman to the man by whom she says she has been forcibly ravished against the king's peace. If he is convicted of this crime [this] punishment follows: the loss of members, that there be member for member, for

when a virgin is defiled she loses her member and therefore let her defiler be punished in the parts in which he offended. Let him thus lose his eyes which gave him sight of the maiden's beauty for which he coveted her. And let him lose as well the testicles which excited his hot lust. (Bracton, trans. 1968, vol. 2, 414-415)

Punishment for rape depends, for Bracton, on two factors: first, the (potential) relationship between the raped woman and another man; second, the quality of the loss: "virginity defines the value of an unmarried woman" (Baines 2003, 60)⁶. The role of the woman's consent is downplayed, if not irrelevant.

Though medieval laws of rape applied for the period 1558-1700, "it seems that in the late sixteenth century, the legal view of rape changed. Rape came to be seen as a crime against the person, not a crime against property" (Bashar 1983, 41). The 1557 and 1597 Statutes treat rape and abduction as separate offences, but still describe rape as a property crime⁷. However, some legal manuals underscore the distinction made in the 1557 and 1597 statutes and suggest that an important change in the definition of the crime occurred around the middle of the sixteenth century. In the revised edition of Sir Anthony Fitzherbert's *The Nevv Boke of Iustices of Peace*, published in 1554, rape, "which is to rautishe a woman agaynst her wyl" is distinguished from the category of "Takers of women against their wyll" (fol. 1012v)⁸. The shift from a view of rape as a property crime to a view of rape as a sexual crime entails that greater emphasis is now placed on the victim's consent, on her innocence, morality, resistance and will.

However, growing emphasis on the issue of the woman's consent shows a growing anxiety about the woman's ability to lie about her consent that, in turn, highlights a fear of women's sexual independence. The question was: was she raped or did she give herself away? Failing to prove lack of consent, a woman could become complicit in the crime; therefore, the raped victim must not only refuse consent to her assailant but also make her refusal unambiguously evident to an audience that prejudicially questioned women's sexual motives (Solga 2006, 58). Thus her credibility, her innocence, and consequently the possibility of a successful appeal to the authorities, rely on "her physical and rhetorical performance before and after the act of violation" (Sallmann 2010, 47). Only by making visible what "cannot be visualized", and translating it into "signs", can the victim legitimate her legal action.

Significantly, in his *De legibus et consuetudinis Angliae*, Bracton "instructs" a raped woman about the ways in which she could present herself as a credible victim of violation:

She must go at once and while the deed is newly done, with the hue and cry, to the neighbouring township and there show the injury done her to men of good repute, the blood and her clothing stained with blood, and her torn garments. And in the same way she ought to go to the reeve of the hundred, the king's serjeant, the coroners and the sheriff. (Bracton trans. 1968, vol. 2, 415)⁹

The victim has to provide evidence not only in her own voice and words but also with her body: “torn garments” are proof of struggle, “blood” and “clothing stained with blood” indicate wounds and also bear witness to her (lost) virginity¹⁰. Moreover, in order to be successful, an appeal has to include several exact repetitions of the account, each time addressed to a different audience. The *inner* act of violence is thus turned into a public spectacle, its victim into an actor – playing both herself and the self she is expected to be – whose ability to perform according to a script determines the successfulness of the legal appeal. *The Lavves Resolutions* describes and prescribes a code of conduct that serves not only to make an act of violence known but also to construct the reality of an act that has taken place “offstage”; in so doing, however, the actuality of rape itself is irremediably effaced (1632, 60; Sallmann 2010, 48).

2. *Abominable Acts*

Many early modern rape scenes record the victim’s attempt to dissuade her assailant from pursuing his violent course of action; indeed, they are constructed as a contention between two types of discursive acts: the aggressor’s persuasive speech aiming at obtaining the woman’s consent and the victim’s dissuasive speech whose failure leads to the violence itself. This action changes the victim’s sexual and social status, from a chaste woman, either preserving her virginity or remaining faithful to her husband, to an “unchaste” one, a woman who has irremediably lost her honour and “good fame” (Catty 1999, 3-4).

In “A new ballad, intituled, A warning to youth, shewing the lewd life of a marchants sonne of London” (1628-1629), the innocent victim voices the severe social disapproval and discrimination that she and her child will experience. The broadside tells the story of a dissolute and self-indulging young man who rapes “an honest Maide” (l. 81) after “inforc[ing] her to drink” (l. 95)¹¹. “Sencelesse” (l. 101), and therefore unable to make any “resistance” (l. 100), she “loses” “her sweet virginity, / Which she had kept full twenty yeares, / with great severity” (ll. 102-104). After recovering consciousness, she

... knew of her defame,
In pining grief, she languisht long,
Like Philomel by night
And would not come for very shame,
In honest Maidens sight:
Her wombe at last began to swell,
Her Babe received life:
And being neither Widow nor Maid,
Nor yet a married Wife,
Did wish that she had nere been borne,
But in her Cradle dyd. (ll. 112-122)

...
 This Babe that breedeth in my wombe,
 (quoth she) shall nere be borne,
 Nor calld a bastard by such wives,
 That hold such love in scorne:
 For I a Strumpet in disgrace,
 Though one against my will,
 Before I will so shame my friends,
 My deare lives bloud Ile spill.

For as with wine I was deceivd
 And made a vitious Dame,
 So will I wash away with Wine
 My scar[l]et spots of shame.
 Then drinking up her burning Wine,
 She yeelded up her breath,
 By which likewise the unborne Babe,
 Was scalded unto death. (ll. 125-140)

Though the focus of the text as a whole is upon the lewd young man and his mischievous behaviour, the ballad highlights a series of features that are present in many other early modern representations of rape. First of all, the victim voices her complaint, expressing her sorrow and suffering; reference to Philomela witnesses the popularity enjoyed by the Ovidian story as well as its transition from Latin literature to English popular literature and thus from one sphere of culture to another¹². Moreover, in the victim's speech, great emphasis is put on status loss; rape has turned her from "an honest Maide" to "a Strumpet in disgrace" and "a vitious Dame", who will encounter hostility and will be held in contempt. Because of rape she can no longer belong to any of the socially accepted categories that "contained" women: she is neither a widow, nor a maid, nor a wife.

The ballad also registers the feeling of shame that the raped woman experiences, a feeling that leads her to self-destruction and, as a consequence, to the death of the child she is expecting. As the story of Lucretia illustrates, rape and suicide are frequently associated; in many early modern texts, the victim punishes herself for a crime committed against her: suicide becomes a way to purification of the "soil" of rape¹³. The raped woman accomplishes the act with the help of the weapon used by the rapist either to threaten her (the "knife" in Shakespeare's *The Rape of Lucrece*) or to deceive her ("wine" in this ballad – the victim drinks herself to death).

Another interesting aspect the ballad shows concerns the notions of (dis)honour and reputation, notions that applied to all social levels in early modern England, though their meanings varied sensibly according to gender and status (Reay 1998, 213)¹⁴. The text hints at the role played by local gossip

and the force of this censorious, shaming voice (ll. 127-128). This implies that neighbours exercised a form of social control over (unmarried) women by closely observing their behaviour and integrity. By mentioning “such wives, / that hold such love in scorne” (ll. 127-128), the speaking voice reminds us implicitly that “the idea of chastity was not contested” and that women themselves “willingly condemned infidelity in other women” (Amussen 1995, 59). Accusations of sexual misconduct were particularly heavy for women since, as Amussen points out, “women who bore bastards were probably less likely to get married than were other women; their social marginality might lead them into quasi-prostitution” (58). Apparently, as far as the text of this ballad is concerned, no distinction is made between fornication and rape.

Further, the ballad seems to contradict the commonly held view that pregnancy disproves rape, a belief that informed the written law. In this text, we capture a glimpse of a different perspective about consent and conception¹⁵. As the narrator makes clear, the “honest Maide” (l. 81) is “sencelesse” (l. 101) when the rape takes place. Since she “by no meanes would consent” (l. 82), the “lustfull Lecher” (l. 93) succeeds in accomplishing his heinous deed only with “Satan aid, / And cursed counsell helping him” (ll. 90-91), that is with the complicity of a supernatural entity, an intervention that emphasises the victim’s adamant refusal. In spite of this, the victim conceives a child, an event that shows that rape and conception are not mutually exclusive. This, in turn, might suggest that the equation between conception and consent was not as generally accepted as scholars believe. In this sense, the ballad could record an example of what Thomas Laqueur calls a “counterevidence [that] must have been readily at hand”, an instance of “local wisdom” that acknowledges exceptions challenging the dominant opinion (1990, 99, 68). All in all, the ballad projects the image of the “ideal” rapist and raped woman: the first is a (scary) stranger, the latter a young, beautiful, modest and innocent virgin¹⁶. This image has long been part of the Western culture of rape.

While in “A new ballad, intituled, A warning to youth”, the offender deceives his victim by intoxicating her with wine, in “The Life and Death of M. Geo: Sands” (1626), the rapist threatens to kill the woman if she opposes “his will”. The ballad records the criminal events leading to the execution of a “caitiff”, George Sands, whose whole life was devoted to crime and mischief; it delivers a message about morals and a warning to “all young men” to avoid “leud company”. After robbing and strangling a girl in Holborn, Sands

... sought with all his might,
to act a foule transgression,
Upon the body of a Maid,
whom he perforce did ravish,
If she oppos’d his will he said
with speeches somewhat lavish:
That if she did deny to yeeld

to him, hee'd serve her so,
 As he did one in Holborne field
 not very long agoe. (ll. 71-80)

The act of rape is then committed with the “ayd” of an accomplice whom Sands had seduced into “this abuse” (ll. 81-84). The lines quoted focus implicitly on the issue of the victim’s consent and how the attacker attempts to gain it under threat of death, i.e., they highlight the coercive circumstances in which the rape here as elsewhere – Shakespeare’s *Rape of Lucrece* is another instance – takes place. They also show a consistent pattern of behaviour for rapists: they try hard to overcome reluctance and resistance on the woman’s part and do not take “no” for an answer: their “will” cannot be “opposed”. In this example, moreover, the text does not give voice to the woman’s experience nor much attention is paid to her, the emphasis being on her aggressor, whose exemplary iniquity serves the moralistic aims of the author of the ballad.

The image of the rapist as a “stranger” and a personification of evil is fully exploited in another ballad, “A lamentable ballad of the tragical end of a gallant lord and vertuous lady” (1658-1664), where the raped woman is the victim of a “cultural other”. The protagonist is, as the title has it, “a heathenish and blood-thirsty Blackamoor”, a servant in a noble white family, who, in order to revenge himself on his master’s unfair reproach, imprisons the whole family, except the master, rapes the lady, kills the children and their mother in a locked tower of their moated castle, in the full sight of all the town-folks. Seeing all the horror and violence on his family, the gentleman dies. The “villain void of fear” (l. 189), then, commits suicide by throwing himself out of a tower window.

As in other examples, the rape is here preceded by the rapist’s attempt to gain the woman’s consent; if she denies, she will lose her life:

Content yourself, lady, he said,
 Your husband is not nigh.
 The bridge is drawn, the gates are shut,
 Therefore come lie with me,
 Or else I do protest and vow
 Thy butcher I will be. (ll. 75-80)

The woman is described as a “vertuous lady”, who was, before her wedding, “a Virgin of great fame” (l. 2); her resistance is witnessed by her loud cries and laments which attract the attention of the townspeople. The black and heathenish rapist, driven by an aberrant violence, shows no respect for social hierarchy, no emotion nor pity towards any of “his family”. The combination of heathenish ferocity and black skin appears particularly revealing of the fears and anxieties circulating in early modern English society. Locat-

ing responsibility for rape and violence outside the local (white) community and attributing them to a “racial Other” represent a way of underscoring the “chastity” of the Western (imperialistic) culture (Little 2000, *passim*). Moreover, if the rapist is portrayed as a cruel monster and distanced from “ordinary” men, rape becomes an accidental act of violence rather than a social issue.

While ballads, or at least some of them, construct the rapist as someone outside the community and/or a devious and brutish creature, the picture portrayed by court records and pamphlets – some of them giving a summarized account of the proceedings of the Old Bailey – appears different¹⁷. The testimonies these documents contain make clear that, in most cases, the man charged with rape is known to the victim and part of the same cultural and social environment.

Investigating the thirty-four rape victims’ informations surviving for the period 1640-1700, and recorded by the Northern Circuit assizes – Cumberland, Northumberland, Yorkshire and Westmorland – Miranda Chaytor shows that all the victims were the wives, daughters or servants of husbandmen, labourers, shopkeepers or craftsmen; most of them were poor, or at least poorer than the men accused of rape (1995, 381)¹⁸.

From the late 1670s, accounts of the trials that took place at the Old Bailey began to be published regularly. Cheap, and initially aimed at a popular audience, the “Proceedings” were compiled soon after the conclusion of each session (Emsley, Hitchcock and Shoemaker 2003-2012)¹⁹. Brief, with variable levels of factual accuracy, they sold well. A few accounts record rape cases; the focus is on the victim’s credibility, morality and resistance. They also show that bodily evidence of sexual violence played a part in the trials, especially when the crime was committed against young girls.

In the narrative of a trial that took place on 6 September 1677, the man was found “not guilty”, since the woman who charged him “did not cry out”, and “neither a woman who was in another room of the same house”, nor a neighbour “heard the least disturbance”. Furthermore, she failed to report the abuse immediately to her husband, who only found out the following morning, and by meeting her assaulter, she “never charged him or took any notice of it”. All these elements made her testimony less credible and led the jury to pronounce a not-guilty verdict; besides, the man had “a good repute among his neighbours” (Anonymous 1677, 4-5). In another case, the man “Indicted for Ravishing a Maid” was cleared of the charge since the Maid, when examined by the Constable after being beaten by the defendant’s wife, did not mention the rape, but afterwards “pretended” it. In the account, she is described as “a silly Country animal”, who had gone to London expecting a job, while he is portrayed as a married man who offered to “entertain her in his Service” (Anonymous 1678b, 5). In this case, too, the text implicitly betrays the disparity in reputation and credit between the country girl, a servant, and the man, a London master.

In his *Historia Placitorum Coronae*, which was published only in 1736, Matthew Hale maintains that it is left to the jury to assess the credibility of

the “party ravished” and she is “more or less credible according to the circumstances of fact, that concur in that testimony”. By way of example, Hale lists a few “concurring evidences” that, he maintains, “give greater probability” to the testimony:

If the witness be of good fame, if she presently discovered the offense and made pursuit after the offender, shewd circumstances and signs of the injury, whereof many are of that nature, that only women are the most proper examiners and inspectors, if the place, wherein the fact was done, was remote from people, inhabitants or passengers, if the offender fled for it ... But on the other side, if she conceald the injury for any considerable time after she had opportunity to complain, if the place where the fact was supposed to be committed, were near to inhabitants or common recourse or passage of passengers, and she made no outcry when the fact was supposed to be done, when and where it is probable she might be heard by others; these and the like circumstances carry a strong presumption, that her testimony is false or feigned. (633)

In trials involving children, however, the young girl’s concealment of the assault and rape is frequently justified by her shame and fear of being beaten by her parents. Often it is the child’s mother who discovers the physical damage on the girl’s body. In an account of the proceedings at the Old Bailey session for London and Middlesex held at the beginning of July 1678, a “Prentice” was found guilty of raping a “Maiden Child” between eight or nine years old.

The Child fearing the Mother would have beat her, did not presently declare the matter, though she came home Crying, but there was little notice taken then, nor indeed till on the Wednesday following, some unusual symptoms caused the Mother to inquire into it, and then had a full discovery ... (Anonymous 1678a, 2)

The girl, who, as a consequence of the assault, had contracted a “Disease”, testified in court – she was one of the few children who did so – and the rape was proved by the testimonies of “a Midwife, and other Matrons”. Similarly, in the narrative of another trial held at the Westminster Quarter Sessions in October 1680, a “Girl of Nine or Ten Years of Age”, “being ashamed, and not thinking of any harm”, did not reveal the violence committed against her,

till her Mother found out that the lower parts of her Belly were ... grown so sore, that she could not sit down; ... and had half a dozen Midwives to inspect the thing: who all came and made Oath of the Truth of it, and the sad condition the Girl was in ... (Anonymous 1680, 3)

The man charged with the rape, a “Popish Priest” (4), was found guilty and sentenced to pay “a Fine of 500. Marks, to continue in Prison till it be paid, and to give good Security for his Behaviour during Life” (4). Moreover the Court ordered to hand him over to the Old Bailey so that he could be tried as a priest.

Although the last two cases show that the defendants were sentenced to jail, we must bear in mind that in early modern England conviction for rape

was rare and predominantly involved the rape of a child or a very young girl, whose virginity was thought to be forfeited (Baines 2003, 62).

As is well known, the cheap publications of the day rejoiced in what was sensational and the convicted rapist's behaviour frequently got the limelight, in particular when perceived as noncompliant. Obstinate refusal to admit one's crime even at the place of execution, a deviant attitude in a system that made all efforts to induce full confession, was certainly a theme worthy of interest. A 1688 pamphlet, for instance, contains the last speech of a man, Edward Altham, who "would by no means be brought to any Confession" (Anonymous, 1688, 2) of the rape of a nine-year-old, and despite the "several very plain Evidence" (1) brought against him, he denied the fact "to the very last Breath" (2). The pamphlet focuses on Altham's "excellent" behaviour, "much like [of] a Person of a more than ordinary Birth and education" (3), on his pious last speech addressed from the "cart", and on his final prayer, and it seems to insinuate that perhaps the condemned man was after all a victim of wrongful judgement, an innocent unjustly sentenced to death. The text insists on his religious attitude as well as his firm refusal to acknowledge the crime he was found guilty of, though he confessed "all manner of Sin" (3). It also points out that his qualities and the words he uttered "did very much affect the Spectators, every Person seeming to be very Sorrowful for his Untimely End" (3), his rhetorical ability apparently obfuscating the "plain evidence" brought against him.

The figure of the rapist is here constructed in such a way as to raise sympathy among the readership that, in turn, may question the ways in which the justice system operates. If the man is, or is presented as, innocent, the implication is that a malicious suit was brought against him, a criminal complaint that legal authorities have been unable to recognize as untrue. Ultimately, this appears to underscore an overall concern about the difficulty of proving or disproving the actual occurrence of a rape and a preoccupation for the troubling chance of miscarriage of justice, an anxiety that, in turn, might betray a lack of confidence in criminal justice.

In another case, after appearing before justice, the impenitent rapist, "like *Judas*", hangs himself; here it is the perpetrator, not the victim, who commits suicide (Anonymous 1674, 4). The man, William Stapeler, a drover from Romford in Essex, was caught in the act and found guilty of raping a thirteen-year old girl who lodged in his house. After leading her into a "private room",

he most barbarously, and most filthily, and a [*sic*] abominably, committed rape, or ravishment upon the Body of this young Girl; who endeavoured with loud shrieks, and outcrys, to have this unhuman Wretch to be discovered, although for a time it seemed to little purpose, but at length, before his departure, she was herd to cry out and immediately Company came in, and understanding the matter, and circumstances of the business, of this beastly rape, and ravishment, he was laid hold on, and was carried before a Justice; evidence coming against him, he was found guilty of his accusation. (5-6)

Though the anonymous pamphleteer vehemently condemns the act, his attention is fully focussed on Stapeler and the actions leading to his suicide: he “told his Wife ... gave her five shillings in money, and kissed her, and his Children, and he went out at his back door ... goes immediately into a Stable, where he takes a line, and fastening it to the Horses rack, he most desperately hangs himself” (6). Nothing is said about the victim; indeed, she disappears from the scene. The pamphlet closes with an invitation to “every good Christian” to pray God “that so they be prevented, from those evil, and dreadful ends, as this poor Wretch”. Significantly, however, the “evil, and dreadful ends” are those “which he committed upon his own body” (7), his “self-murder”.

The preoccupation with the convicted criminals’ repentance, their open confession, and full conversion to God play a central role in the “Ordinary of Newgate’s Accounts”, which are other interesting sources for the study of early modern rape and, more generally, crime. The stories here contained focus largely on “The Behaviour of the Condemned Criminals in Newgate”; their life is presented as following a pattern that detail stages of sin, crime, repentance, “change of heart”, as well as other questions of faith. The accounts are highly didactic, their aim being to impart moral lessons to contemporaries and encourage respect for the criminal law. Thus it is perhaps not surprising that in these narratives, the victim of the criminal offence is hardly mentioned. Very little is said, for instance, of Elizabeth Nichols, a child who was repeatedly raped by Thomas Benson, an apprentice to the girl’s father, living near Bishopsgate in London; only her age – she was about seven or eight years old when she was assaulted – is mentioned. In the “account of himself” that Benson gave to the Ordinary, “he said that the girl came into his Chamber and so he took the opportunity to commit this ... Act being then in Drink” (*Old Bailey Proceedings, Ordinary of Newgate’s Account* 1684, 2). Highlighting lack of premeditation on Benson’s part, the statement also appears as an attempt to downplay his responsibility in the crime, an attempt that the Ordinary immediately unmasks.

Most rape stories, as well as other crime narratives, were designed to deter the audience from felonious activity and bad behaviour; they also serve the authorities as a means to maintain direct control over public opinion concerning criminal matters. Indeed, serving a moral purpose, most pamphlets and cheap publications exemplify how evil is rightly punished, their closing words typically highlighting a “fit warning” for lewd men to deter from committing “sinful and dreadful actions”, especially on children.

The different representations of rape I have dwelled on in this article need to be corroborated by further research, an investigation that can only be pursued by carefully considering other sources. In addition to legal and religious writings, court records, pamphlets and broadside ballads, other popular texts should be examined. But those fictional texts that belong to “high literature” – poems, plays, prose narratives – should also be closely read. Indeed, all these sources not only bear witness to the ways in which rape was

perceived in early modern England, but perhaps more crucially participate in the discourses that shape these perceptions.

Reflecting on the reliability of traditional historical sources, Christopher Hill indeed expressed his scepticism saying that “we have learnt ... that most state papers are works of fiction; at best they make assumptions which it is difficult for us to recover now. Government statements are usually intended to deceive. We need other sources” (Hill 1996, 4). Recourse to sources other than “traditional” historical documents, therefore, can help us expand research boundaries and offer new insights. In a significant way, these “other sources” will provide evidence for the creative and critical exchange between “high” and “low” cultural forms, their confrontations, reciprocal adaptations and assimilations.

Notes

¹ I use “street literature” to refer to broadside ballads and cheap pamphlets which, together with other inexpensive printed matter, proliferated in early modern England and were available to a variety of audiences spanning a broad social spectrum. They covered a wide range of topics, from polemical information to natural disasters and sensational crimes.

² This essay is concerned with rape as a crime perpetrated by men on women. This does not mean to deny the reality of same-sex rape.

³ Legal records began to be kept more fully and methodically from 1580. Through the period 1580-1720, the conventions of the sources changed: legal records became fuller, but often less individual in style (see Crawford and Gowing 2000, 6).

⁴ See, for instance, section XXII, “The Old Law of Libidinous Rape”, in *The Lavves Resolutions of Womens Rights* (1632, 378-379). As is well known, *The Lavves Resolutions*, commonly called “The Women’s Lawyer”, was designed to collect, and comment upon the several laws then in place concerning women’s legal rights and duties.

⁵ For studies on medieval rape law from a legal perspective, see Post (1978).

⁶ Later, in the same work, while treating gang rape, Bracton makes clear that “to defile a virgin and to lie with one defiled [are different deeds]” and therefore “only one shall be held for the defilement, though several may be liable for lying with her” (Bracton, trans. 1968, vol. 2, 417).

⁷ *Statutes of the Realm*, 4 & 5 Phil. & Mar. c.8, 1557-1558, 329-330; *Statutes of the Realm*, 39 Eliz. c.9, 1597-1598, 910 (Luders et al. 1810-1828). In the 1557 Statute, the focus is on disinheritance and the forfeiture of property when a person abducts, deflowers, or contracts secret marriage with a “Maide or Woman Childe”.

⁸ The first edition, *The Neue Boke of Iustices of Peas*, which appeared in both law French and English editions in 1538, does not distinguish between the two offences.

⁹ Similarly, Glanville’s treatise of 1187 emphasized the importance of the victim’s display of the “injury done to her”, the “effusion of blood”, and “tearing of her clothes” (Glanville trans. 1965, quoted in Hanawalt 1998, 126).

¹⁰ Deuteronomy 22 prescribed that, in case a man slanders his wife, saying that he “found her not a maide” (22:14), the woman’s parents “take and bring the signes of the maydes virginity vnto the Elders of the citie” (22:15); and the father will say: “loe, these are the tokens of my daughters virginity” (22:17). The marginal note in the Geneva Bible explains that the “tokens” are “the sheet, wherein the signes of her virginity were”. In this study, quotations from the Old Testament are taken from the Geneva Bible.

¹¹ There is probably an allusion here to Ephesians 5:18 which intimates: “And be not drunk with wine, wherein is excess ...”. In the Geneva Bible, the marginal note to this verse explains that by “excess” is meant “Every type of disorder, together with every manner of filthiness and shamefulness”.

¹² Other ballads cite Ovid's works or allude to them. For instance, in "The Twa Magicians", a traditional ballad first published in 1828, we read about a transformation chase where the pursued "Lady" takes on different shapes in order to escape her pursuer, a "blacksmith" determined to "gain [her] maidenhead", himself changing forms accordingly (Buchan 1828, 24-27). As far as the story of Lucretia is concerned, its popularity is witnessed by a number of seventeenth-century broadside ballads that contain explicit mentions of the classical heroine, who is always summoned as an example of chastity (together with Penelope) and honesty (see, for instance, Anonymous 1634-1680?, Anonymous 1633-1669?, Parker 1632).

¹³ The story of Lucretia, repeatedly reproduced, was familiar in the early modern period and as Mieke Bal puts it "it was, so to speak, part of the culture" (1994, 76; see also 2001, 95). Livy's *History of Rome* and Ovid's *Fasti* are generally recognized as the most common classical sources of many early modern rape narratives. Augustine's exposition on rape and Lucretia's suicide in *De Civitate Dei* (1.16-19), "firmly established the legend as a basis for theological and legal debates on the subject, particularly during the medieval and early modern periods which, in turn, were reflected in the literature of the time" (Sallmann 2010, 55). After William Painter's translation of Livy's text in *The Palace of Pleasure* (1566), the legend became very popular in English literature, Shakespeare's *The Rape of Lucrece* (1594) being the most celebrated example.

¹⁴ For discussions on the honour and dishonour of women in early modern England, see Gowing (1996) and Walker (1996). On defamatory language, see Cressy (2010, 23-27; 2013 forthcoming).

¹⁵ In the law, the equation of consent and conception appears first in a dictum in a thirteenth-century treatise by Britton, and was repeated in sixteenth- and seventeenth-century manuals for justices of the peace (Greenstadt 2001, 315). Founded on popular and quasi-medical theories, the assumption that conception invalidates any accusation of rape was a commonplace in the early modern period.

¹⁶ The Flemish girl's beauty "ravisht" the "Marchants Sonne" and made him "crav[e] her secret company" (ll. 77-80). Interestingly, "ravisht" is the same verb used in l. 99 to express the action of rape. A woman who is ravishing, who leads the man to be "carried away", is by implication responsible for the subsequent actions: accountability for the rape is thus shifted away from the one responsible.

¹⁷ It should be noted that most pamphlets containing narratives or mentions of rape belong to the second half of the seventeenth-century.

¹⁸ The depositions included in the Northern Circuit assize papers are of two kinds: the examinations of the defendants and the informations of the plaintiffs and witnesses (Chaytor 1995, 380).

¹⁹ From January 1679, "the Court Alderman of the City of London ordered that accounts of the proceedings at the Old Baily could only be published with the approval of the Lord Mayor and the other justices present" (Emsley, Hitchcock and Shoemaker 2003-2012). Another publication that shared the commercial success of the "Proceedings of the Old Bailey" was the "Ordinary of Newgate's Accounts" (1676-1772) that contain the lives of the criminals executed at Tyburn. The accounts can be found in Hitchcock, Shoemaker, Emsley, *et al.*, <www.oldbaileyonline.org>, version 7.0 (09/2012).

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